

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY


(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

REC'D 20 OCT 2005

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Applicant's or agent's file reference 47938-50		FOR FURTHER ACTION		See Form PCT/IPEA/416
International application No. PCT/CA2004/000994		International filing date (day/month/year) 07.07.2004	Priority date (day/month/year) 07.07.2003	
International Patent Classification (IPC) or national classification and IPC F16N11/10				
Applicant NATASA ENTERPRISES LTD. et al.				
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 7 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input checked="" type="checkbox"/> sent to the applicant and to the International Bureau) a total of 2 sheets, as follows:</p> <p><input checked="" type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in Item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>				
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the opinion</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input checked="" type="checkbox"/> Box No. VII Certain defects in the international application.</p> <p><input checked="" type="checkbox"/> Box No. VIII Certain observations on the international application</p>				
Date of submission of the demand 05.05.2005		Date of completion of this report 21.10.2005		
Name and mailing address of the International preliminary examining authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016		Authorized Officer Paquay, J Telephone No. +31 70 340-3944		



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Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language , which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3 and 23.1(b))
 - ☐ publication of the international application (under Rule 12.4)
 - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report):*

Description, Pages

1-15 as originally filed

Claims, Numbers

1-14 filed with telefax on 05.05.2005

Drawings, Sheets

1/15-15/15 as originally filed

- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing (*specify*):
 - ☐ any table(s) related to sequence listing (*specify*):
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing (*specify*):
 - ☐ any table(s) related to sequence listing (*specify*):

* If item 4 applies, some or all of these sheets may be marked "superseded."

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Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-14
	No: Claims	
Inventive step (IS)	Yes: Claims	
	No: Claims	1-14
Industrial applicability (IA)	Yes: Claims	1-14
	No: Claims	

2. Citations and explanations (Rule 70.7):

see separate sheet

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

see separate sheet

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

see separate sheet

Re Item V

**Reasoned statement with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement**

- 1 The following documents are referred to in this communication:
D1 : DE 44 05 006 A (WENNER MANFRED E) 11 August 1994 (1994-08-11)
D2 : DE 38 11 468 A (SATZINGER GEBHARD GMBH CO) 19 October 1989 (1989-10-19)
D3 : EP 0 982 527 A (LIMON FLUHME & CO DE) 1 March 2000 (2000-03-01)
D4 : US 5 968 325 A (SONG JIELIN ET AL) 19 October 1999 (1999-10-19)
D5 : US 4 744 442 A (DE BLIC EMANUEL M ET AL) 17 May 1988 (1988-05-17)

- 2 To the claims 1 to 14:

The present application does not meet the criteria of Article 33(1) PCT, because the subject matter of the claims 1-14 does not involve an inventive step in the sense of Article 33(3)PCT.

- 2.1 To the first and only independent claim 1: Under the assumption that with the unclear word "union seal" (see thereto also point VIII-2 of this communication) a seal is meant, that separates the functional volume of subsystem A from the functional volume of subsystem B, the following can be said to claim 1: Document D1, which is considered to represent the most relevant state of the art to the subject matter of claim 1, discloses (the references in parentheses applying to this document) a reusable fluid (column 1, line 22) dispenser (column 1, lines 3-5) comprising:
 - a) a subsystem B having a fluid reservoir (1) adapted for containing a fluid, the fluid reservoir comprising:
 - (i) a fluid outlet (the lowest part of part 1) adapted for dispensing fluid contained in the fluid reservoir (1);
 - (ii) a separator (4) movably positioned in a dispensing position to bias fluid contained in the fluid reservoir (1) out of the fluid outlet, to dispense the fluid through the fluid outlet and
 - b) subsystem A having a power head assembly (everything above piston 4)

removable (column 1, line 51-55) attached to the fluid reservoir (1) comprising a gas generator (column 2, line 5-23) in fluid communication with the separator (3), wherein gas generated by the gas generator is communicable to the separator (3) to move the separator (3) to dispense the fluid, wherein a seal (column 2, line 11) couples subsystem A to subsystem B so as to limit escape of the gas generated by the gas generator in communication with the separator (4).

Document D1 does not mention the fluid inlet for recharging the fluid reservoir with the fluid.

In view of this difference, the subject-matter of the first claim is new (Article 33(3) PCT).

A fluid inlet for recharging a fluid reservoir is a very well known item in the field of lubrication. Such a fluid inlet can be found back in document D2 (part 18 in figure 2) and in document D3 (tube 5 in figure 1). A man skilled in the art does not need to be inventive to implement such a recharging possibility into the configuration of document D1.

Therefore the subject-matter of claim 1 does not involve an inventive step in the sense of Article 33(3) PCT.

- 2.2 To claim 2: The fluid inlet for recharging a fluid reservoir in claim 1 is not considered to be inventive. The use of a one-way fluid / grease fitting for recharging a reservoir is well known and is merely one of several straightforward possibilities from which the skilled person would select, in accordance with circumstances, without the exercise of inventive skill, in order to add a fluid fitting to the reservoir of claim 1. In view of that, the subject-matter of claim 2 does not involve an inventive step in the sense of Article 33(3) PCT.
- 2.3 To claim 3: Document D1 also shows a sealing (column 2, line 11). This sealing prevents the leaking of the gas into the reservoir, as claimed in claim 3. The subject-matter is therefore not inventive in the sense of Article 33(3) PCT.

- 2.4 To claims 4 and 5: It is well known, that the electrochemical processes of document D1 can be processes as claimed in claim 4 and 5. Document D4 shows (column 2, lines 41-46) for example a spontaneous electrochemical gas generating cell. In view of this, the subject-matter of the claims 4 and 5 cannot be considered as being inventive in the sense of Article 33(3) PCT.
- 2.5 To claim 6: Document D5 shows (column 4, lines 12-15) an adjustable expelling rate of the lubricant. A man skilled in the art can implement the thereto belonging system (with a plurality of galvanic cells) into the configuration of document D1 without being inventive. Therefore, the subject-matter of claim 7 is not inventive in the sense of Article 33(3) PCT.
- 2.6 To the claims 7-13: These claims all contain well-known features for a man skilled in the art of lubrication devices. The documents D1 to D5 show these features. Each claimed feature is merely one of several straightforward possibilities from which the skilled person would select, in accordance with circumstances, without the exercise of inventive skill, in order to solve the problem posed. Thus, the subject-matter of the claims 7 to 13 is not inventive in the sense of Article 33(3) PCT.
- 2.7 To claim 14: A man skilled in the art who has the task to construct the device of document D1 can come to the configuration of claim 14 without being inventive. The reason why he can come to the concept of claim 1 is explained in point 2.1 of this communication. Compared to claim 1, claim 14 contains some specific but to a man skilled in the art well-known construction details that are or known from one of the documents D1 to D5 or normal design features (like for example the locking ring) to a man skilled in the art. In view of that, the subject-matter of claim 14 is not inventive according to Article 33(3) PCT.

Re Item VII.

- 1 Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in the documents D1 to D5 is not mentioned in the description, nor are these documents identified therein.

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(SEPARATE SHEET)**

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- 2 Independent claim 1 is not in the two-part form in accordance with Rule 6.3(b) PCT, which in the present case would be appropriate, with those features known in combination from the prior art being placed in the preamble (Rule 6.3(b)(i) PCT) and with the remaining features being included in the characterising part (Rule 6.3(b)(ii) PCT).
- 3 The features of the claims are not provided with reference signs placed in parentheses (Rule 6.2(b) PCT).

Re Item VIII.

The application does not meet the requirements of Article 6 PCT, because claims 2, 4 and 15 are not clear.

- 1 To claim 2: This claim mentions a fluid inlet with a one-way fluid fitting. This could be understood as a fluid fitting that can be used only once. According to the figures and the description, this does not seem the case. Thus, the term one-way is vague and unclear and leaves the reader in doubt as to the meaning of the technical features to which it refers, thereby rendering the definition of the subject-matter of said claims unclear, Article 6 PCT.
- 2 To the claims 1 and 14: These claims contain the term "union seal". The term has no well-recognised meaning and leaves the reader in doubt as to the meaning of the technical features to which it refers, thereby rendering the definition of the subject-matter of said claims unclear, Article 6 PCT.